

REMARKS/ARGUMENTS

Applicant has carefully reviewed and considered the Office Communication mailed on March 6, 2006.

Claim 1 and 18 are amended to accord proper antecedent basis, no claims are canceled or added; as a result, claims 1-57 are now pending in this application.

Information Disclosure Statement

Applicant respectfully requests that a copy of the 1449 Forms, listing all references that were submitted with the Information Disclosure Statements filed on March 12, 2004, June 9, 2005, and February 28, 2006, marked as being considered and initialled by the Examiner, be returned with the next official communication.

Election/Restrictions

The Examiner stated in the Office Communication of March 6, 2006, that Applicant is required under 35 U.S. C. 121 to elect a single disclosures species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Additionally, the Examiner stated that currently there is no generic claim. The Examiner required election of a single disclosed species from the following candidates:

Embodiment 1: Fig. 1A

Embodiment 2: Fig 1B

Embodiment 3: Fig. 1C

Embodiment 4: Fig. 1D

Embodiment 5: Fig. 1E

Embodiment 6: Fig. 1F

Embodiment 7: Fig. 2

Embodiment 8: Fig. 4

Applicant provisionally elects, with traverse, to prosecute the invention of Embodiment 1. The Restriction Requirement is traversed, at least in part, on the basis that restriction requirements are optional in all cases. MPEP 803. As the section further states, if the search and examination can be made without serious burden, the Examiner must examine it on the merits.

Applicant notes that each independent claim (i.e., claims 1, 18, and 48) recites “a drain electrode”, “a source electrode”, “a channel contacting the drain electrode and the source electrode” (or “means for a channel to electrically couple the drain electrode and the source electrode”), and “a gate dielectric positioned between a gate electrode and the channel” (or “a gate electrode separated from the channel by a gate dielectric”). Applicant submits that each of the embodiments illustrated in the Figures, and classified as “species” by the Examiner, is covered by the recited elements of independent claims 1, 18, and 48, thereby making the independent claims generic to all the embodiments listed above.

Moreover, MPEP section 806.04(f) states that “a requirement for restriction to a single species may be proper if the species are mutually exclusive”, which “may also be expressed by saying that to require restriction between claims limited to species, the claims must not overlap in scope.” Because of the generic nature of the independent claims, along with no dependent claims being specifically directed to one of the embodiments listed above, Applicant cannot designate any particular claims as being specifically associated with any particular embodiment listed above, including provisionally elected Figure 1A (i.e., Embodiment 1). As such, Applicant respectfully submits that restriction is improper with regard to the present disclosure because the listed species (i.e., embodiments) are not mutually exclusive and do overlap in scope.

Therefore, Applicant respectfully submits that in searching for references regarding claims covering one of the embodiments listed above, the Examiner will be identifying references applicable to each of the claims covering the other embodiments and that examination thereof can be made without serious burden.

In addition, it is submitted that Applicant should not be required to incur the additional costs associated with filing multiple divisional applications in order to obtain protection of the claimed subject matter, given that the present restriction requirement itself follows restriction of the original application.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the Restriction Requirement, and that claims 1-20 and 48-57 be examined on the merits together.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney Donald J. Coulman at (541) 715-1694 to facilitate prosecution of this matter.

At any time during the pendency of this application, please charge any additional fees or credit overpayment to the Deposit Account No. 08-2025.


CERTIFICATE UNDER 37 CFR §1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS AMENDMENT Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450 on this 27th day of March, 2006.

Alison L. Subendam
Name


Signature

Respectfully Submitted,
Randy L. Hoffman, et al.

By their Representatives,
BROOKS & CAMERON, PLLC
1221 Nicollet Avenue, Suite 500
Minneapolis, MN 55403

By: 
Edward J. Brooks III
Reg. No. 40,925

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